1950. File No. S. Bijapur 9/50

Legal department

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A¹ BRANCH

Subject:— Bijapur Suit

Civil Suit No. 608 of 1949

Shrinivasacharya Bhimacharya Jahagirdar —Plff

Vs:

The State of Bombay ——— Deft

For a declaration that he is liable to pay only Rs. 220-3-6 on account of Indian Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Govt directing the recovery of Local Fund Cess from individual sub-shares in proportion to their assessment as communicated to him in Govt letter, R. D. No. 6031/45/28812 dated the 11th June 1948 is illegal and ultra vires and for a permanent injunction restraining Govt from enforcing the said

Civil Appeal No. 90 of 1951

S. Bijapur 9/50

File No.

Gen.136—50 3—1,000—8/48—ca.

S. Bijapur 9/50

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Shrinivasacharya Annacharya Jahagirdar.

Vs.

State of Bombay

For a declaration that he is liable to pay only Rs. 220-3-6 on account of Judi and Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Govt. directing the recovery of Local fund cess from individual sub-sharers in proportion to ~~him in Govt~~ their assessment as communicated to him in Govt. letter, Revenue Dept. No. 6031/45/28812-M dated the 11th June, 1948 is illegal and ultra vires and for a permanent injunction restraining the Govt. from enforcing the said order.

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Presented
~~Proceeded~~ on 5-11-49.

9/9.

C.S.No. 608 of 1949.

In the Court of the Civil Judge,

Senior Division, Bijapur.

.....

1. Shrinivasacharya Annacharya Jahagirdar, Brahimn, Agriculturist, age 70 of Padaganur taluka Sindgi, District Bijapur----- Plaintiff.

Vs.

2. The Province of Bombay

Claim Rs.

The plaintiff abovem named begs to submit as under:-

1. The village of Padaganur is Survá Inam to the plaintiff and his bhaubands. The Sanad regarding the grant of the Inam was given to Ramakeshawacharya Varada Venkatacharya Adya Jahagirdar who was the paternal uncle of the plaintiff. According to the sanad the plaintiff and his bhaubands are the full owners of the soil and the lands are exempt from the payment of the assessment andz are liable to pay only the Judi and Local Fund Cess.

2. The first partition in the family in the year 1869 was effected on the basis of the fertility and yield of the land s and not on the basis of the acreage and assessment of the lands. It was therefore specifically agreed between the parties to the partition that the Government dues namely Judi and Local Fund Cess etc. regarding the village should be paid by the sharers in proportion to their shares in the Inam and not on the basis of the assessment of the lands assigned to their share. This practice is being followed since 1869 and is admitted by all the sub-sharers in their subsequent partitions among their branches and all the sharers have admitted this practice in their statements at the time of the introduction of the record of Rights in Padaganur village in 1925.

P.T.O.

3. This agreement between the plaintiff and his bhaubands has been recognised and acted upon by the defendant also since the partition of 1869. The defendant has since 1869 been recovering judi and Local Fund Cess on this very basis. The defendant is not therefore entitled to claim from the plaintiff any additional amount other than the amount of his share namely Rs 96-5-0 on account of local fund cess and Rs. 122-3-6 as Judi and Rs. 1-11 rel shree Laxim Temple. that is being recovered from him sice 1869.

4. In April 1948 the plaintiff learnt that the defendant has issued orders to the Collector of Bijapur for recovering some additional amount from the plaintiff on the basis of the assessment of the lands in his possession. The plaintiff therefore submitted a petition to the defendant who have in their reply No. 6031/45/28812-M Revenue Department dated 11th June 1948 informed the plaintiff that the Government has decided to recover Local Fund from individual sub- sharers in proportion to their assessment and the excess amount so far recovered from the eight sub-sharers should be refunded after recovering the amount from the five sub-sharers who have been paying less.

5. In view of the tacit understanding between the Inamdars of Padaganur inter se and its recognition by the defendant and the practice followed both by the Inamadars and the defendant sin e 1869 the order of the defendant mentioned above is illegal and ultravires. Hence this suit for a declaration that the order contained in No. 6031/45/28812-M of the Revenue Departmeh of the defendant is ultravires and illegal and for a permanent injuction restraining the defendant from demanding or recovering any amount in excess of Rs 220-3-6 which he has been paying since 1869.

6. Cause of action arose in April 1948 when the defendant issued the order for recovering additional amount from the plaintiff and in June 1948 when the cause was communicated to the plaintiff.

7. The suit being one for declaration that the defendant-

is entitled to Rs. 220-3-6 only from the plaintiff and that his order to collect any higher amount from the plaintiff is ultravires and illegal and for a permanent injuction restraining the defendantf from enforcing this order against the plaintiff, is valued at Rs five only for the purposes of Court fee and jurisdiction.

8. The parties reside within the jurisdiction of this Court and the cause of action has accured at Padaganur within the jrisdiction of this Court. Hince this Court has jurisdiction to try this suit.

9. Notice of this suit dated 10th July 1948 was delivered to the Collector.

The plaintiff prays:-

(a) That it may be declared that the plaintiff is liable to pay Rs. 220-3-6 only on account of Judi and Local Fund Cess due for his share in the Inam lands at Padaganur taluka Sindgi and hence the order of the defendant for recovering any additional amount from him is ultravires and illegal.

(b) That a permanent injuction be issued to the defendant restraining him from enforcing this order mentioned in para 4 of the plaint against the plaintiff;

(c) that the costs of this suit be awarded to him from the defendant, and

(d) that any other relief or reliefs arising from the pleadings be granted.

I, Shrinivasacharya Annacharya Jahagirdar, the above named plaintiff do hereby solemnly affirm that the contents of this plaint paras 1 to 10 are true to my knowledge.

Bijapur:

Dated:-

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Legal Department.

Bijapur Civil Suit No.608 of 1949.

This is a suit by an Inamdar of the Village of Padaganur, District Bijapur, in which he seeks a declaration that the orders passed by Government for the recovery of local fund cess from all the sub-sharers including himself in the Inam village on the basis of the assessment of the lands held by each of them are illegal and that Government is not entitled to recover from him anything more than the amount he has hitherto been paying. Briefly, the facts of the case are these:-

Till 1938 the plaintiff was treated as the principal Inamdar from whom the 'judi' and 'local fund' due on the inam lands was recovered. In 1938 Government recognized all the 13 sub-sharers as independent Inamdars and it was directed that the 'judi' should be recovered from them individually. Prior to these orders the local fund payable by each sub-sharer was not paid by him on the basis of assessment as provided in section 93 the Local Boards Act but in proportion to the share of each in the inam lands with the result that whereas 8 out of the 13 sub-sharers paid more than what was legally recoverable from them under section 93 the remaining five, of whom the present plaintiff is one, paid less. Hence on the representation of one of the sub-sharers adversely affected by this wrong practice, Government passed orders that the local fund cess should be recovered from each of them in proportion to his assessment and the excess so far recovered from the 8 sub-sharers should be refunded after making recovery from the other five who have been paying less.

Aggrieved by the Government's order referred to above the plaintiff has filed this suit. The

defence is that the practice hitherto followed was wrong and that under section 93 of the Local Boards Act the Local Fund cess has to be levied on every rupee of assessment and, therefore the Government orders are correct.

The defence of the suit may be sanctioned on the lines of the accompanying brief.

R.
4.5.1950

REVENUE DEPARTMENT,
SECRETARIAT, BOMBAY.

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In the Court of the Civil Judge, Senior Division,

At Bijapur.

Civil Suit No. 608 of 1949.

1. Shinivasacharya Annacharya
Jaghirdar of Padaganur
taluka Sindgi. plaintiff.

Vs.

1. State of Bombay. defendant.

The written-statement of the defendant.

1. The facts in paras 1 to 5 of the plaint are not correctly stated. Under an old partition the village was divided into 3 equal shares of 0-5-4x each. The plaintiff was considered to be the principal Inamdar and the other two as Sub-sharers. There came to be 12 sub-sharers due to partition among the 2 sub-sharers.

2. The plaintiff and the 12 sub-sharers are required to pay Rs. 292-4-0 as local cess annually at the rate of 2 annas per rupee on the total assessment. The plaintiff as the principal Inamdar was held responsible for the payment of this cess and judi. The plaintiff used to recover this cess from the sub-sharers not on the basis of assessment but under an old arrangement. Disputes as to the distribution of the surplus amount of rent arose among the plaintiff and the Sub-sharers and so the Government under it's G.R.Rev.Dept.No. 7722/24 dated 19-8-1949 directed that the sub-sharers should get their share of rent in proportion to their respective sharesand each of them was directed to pay the Judi individually.

3. The local authorities failed to give effect to this G.R. and one of the sub-sharers Naranacharya represented to the Government that local fund was recovered from him not on the basis of the assessment payable by him but in excess. The Government under it's No. 6031/45/17908M dated 18-6-1948 directed the Collector to recover cess from the Sub Sharers in proportion to the assessment payable by them This order of the Government is as per section 75 and

section 93(1)(a) of the Bombay Local Board Act of 1923. The contention of the plaintiff that under the old arrangement he is not required to pay cess on the basis of the assessment and his suit for a declaration that the said order of the Revenue Department is illegal and ultra vires is not tenable. So this suit for declaration and injunction is not maintainable.

It therefore submitted that that the suit be dismissed with costs.

District Government Pleader, Bijapur.

I K.R.Rao, M.A.LL.B., District Government Pleader, Bijapur declare that what is stated above in paras 1 to 3 is true according to the information received and believed to be true. This verification is made at Bijapur on the day of 1950.

District Government Pleader, Bijapur.

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Suits :

Bijapur.

For a declaration that he is liable to pay only Rs. 220-3-6 on account of Judi and Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Government directing the recovery of local fund cess from individual sub-sharers in proportion to their assessment as communicated to him in Government Letter, Revenue Department, No. 6031/45/28812-M, dated the 11th June 1948 is illegal and *ultra vires* and for a permanent injunction restraining Government from enforcing the said order.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 7007.

Bombay Castle, 23rd May 1950.

Letter from the Collector of Bijapur, No. LAW-197, dated the 2nd February 1950—

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), BIJAPUR.

Civil Suit No. 608 of 1949.

Shrinivasacharya Annacharya Jahagirdar ... Plaintiff;

versus

The State of Bombay ... ... Defendant.

Forwarding the papers in the suit noted in the margin and requesting sanction to its defence.

Memorandum to the District Government Pleader, Bijapur, No. 6883, dated the 20th May 1950—Forwarding a copy of the brief with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

original

P. H. LAD,
Secretary to Government.

G R., No. 7007, L. D., dated the 23rd May 1950.

To

*The Revenue Department,
*The Collector of Bijapur,
The District Government Pleader, Bijapur (with two copies of the brief).

*With a copy of the brief.

No. of 1950.

Copy forwarded for information and guidance to

Issued
cop 10/8/50

Subdt. after issue
Lit in S. Bijapur 50
11-8
Subdt 11/8

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BIJAPUR CIVIL SUIT NO. 608 OF 1949.

Chronological Statement of Facts.

The suit is filed by Mr. Srinivasacharya Annacharya Jahagirdar, Inamdar of the village of Padaganur, Taluka Sindgi, District Bijapur, for a declaration that he is liable to pay only Rs. 220–3–6 on account of Judi and Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Government directing the recovery of local fund cess from individual sub-sharers in proportion to their assessment as communicated to him in Government Letter, Revenue Department, No. 6031/45/28812-M, dated the 11th June 1948 is illegal and *ultra vires* and for a permanent injunction restraining Government from enforcing the said order.

2. Padaganur is an entire Inam village of Class II. At one time it was divided into three equal shares of 0–5–4 each and the plaintiff in this suit was considered as the principal Inamdar and the other two as sub-sharers. Subsequently, there were 12 further sub-divisions amongst the 2 sub-sharers.

3. The total assessment of all the inam lands in the village was Rs. 2,397-7-0 and the local fund cess thereon at the rate of 2 As. in the rupee comes to Rs. 299-11-0. Out of the aggregate assessment Rs. 59–8–2 were recovered on account of Paragana Watandars, i.e., Deshpande, Nadgouda, etc., and the local fund cess of Rs. 7–7–0 on this amount was paid by these Watandars directly into the Taluka sub-treasury. The remaining amount of local fund of Rs. 299–2–0 was paid by all the sub-sharers together, not in accordance with the assessment payable by each sub-sharer but roughly in proportion to their share in the inam lands. Before 1939 the person solely responsible for the payment of 'judi' and 'local fund' cess was the present plaintiff who was the so-called principal Inamdar. It appears that this arrangement of collecting local fund had been ordered by the Prant Officer in 1925 and continued till 1939 when by Government Resolution, Revenue Department, No. 7722/24, dated the 9th August 1939, it was directed that the shares of all sub-sharers in this village should be recognized and the surplus amount of rent recovered by the village officers should be paid direct to each of them in proportion to their respective shares and that the sub-sharers in their turn should be individually responsible for the payment of 'judi' due from them.

4. In spite of the above orders, however, the old practice of paying local fund was continued. In 1946 one of the sub-sharers Narayanacharya Rangacharya submitted an application to Government contending that he was obliged to pay the Local Fund of Rs. 19–7–8 whereas he was liable to pay only Rs. 16–10–5 on the basis of the assessment payable by him on his share in the Inam lands and he, therefore, requested that the excess amount recovered from him may be refunded.

5. The Collector to whom this application was forwarded for inquiry and report submitted his report No. W.M.S./1266, dated 29th July 1947, from which it transpired that the Local Fund cess was not recovered from all the 13 sharers in proportion to the assessment paid by them. It also transpired that 8 sub-sharers were paying local fund in excess of what was legally recoverable from them whereas five of them including the present plaintiff were paying less. Therefore, by Government Letter, Revenue Department, No. 6031/45/17918-M, dated the 1st June 1948, the Collector was directed that local fund cess should be recovered from individual sub-sharers of the village in proportion to the assessment payable by them and the excess amount so far

recovered from the 8 sub-sharers should be refunded after recovering the amount from five sub-sharers who had been paying less.

6. The plaintiff made a petition in appeal to Government for reconsideration of the above orders but his request was not granted.

7. On 10th July 1948, the plaintiff gave notice of suit under section 80 of the Civil Procedure Code and on 5th November 1949, he filed this suit in the Court of the Civil Judge (Senior Division), Bijapur.

Grounds of Defence.

The main contention of the plaintiff is that ever since the partition in the family in the year 1869 it was specifically agreed between the parties to the partition that the 'judi' and 'local fund cess' on the inam lands should be paid by the sharers in proportion to their shares in the inam lands and not on the basis of the assessment of the lands assigned to their shares, that this practice which has been followed since 1869 has been recognized and acted upon by the defendant Government from the very beginning and Judi and Local Fund has been recovered on this basis and that, therefore, Government is not entitled to recover from the plaintiff any amount in excess of Rs. 96-5-4 which he now pays as local fund. This contention is untenable. Under section 75 of the Bombay Local Boards Act of 1923 the local fund cess levied under section 93 forms part of the local fund. Under section 93 (*1*) (*a*) local fund cess has to be levied at a particular rate on every rupee of every sum payable to Government as ordinary land-revenue, except certain sums payable on account of any charges mentioned in Schedule A and except sums payable on account of any charge which may be notified by Government in that behalf. When Government recognized each of the 13 sub-sharers in the village as independent inamdars individually responsible for the payment of Judi due from them, each of them became also liable under section 93 of the Local Boards Act, 1923, to pay the local fund at the specified rate on every rupee of the assessment on the inam lands held by him. The mere fact that previously the cess was collected in a different way i.e., in proportion to their share in the inam-lands does not estop Government from collecting it in accordance with the provisions of Statute for it is a settled rule of law that there can be no estoppel against a Statute. The practice previously followed was clearly wrong and was liable to be set aside by Government. Therefore, the orders of Government dated the 1st June 1948 are correct and the plaintiff is not entitled to claim any relief against them. It is clear that the plaintiff has filed this suit because under those orders he will be one of the five sub-sharers who are required to pay more than what they were hitherto paying.

2. For the above reasons it should be submitted that the suit fails and must be dismissed with costs.

S. Bijapur 1 to 5
(New Sr.)
1248

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Received on - 5-11-1949.
Registered on 25-11-1949-
Decided on 13-12-1950.
Duration 1-1-8.

In the Court of the Civil Judge.Sr.Dn.
At Bijapur.
Civil Suit No. 608 of 1949.

Shri A.B.Kankanwadi. & G.K.Kurandwad.

1. Shriniwasacharya Annacharaya Jahagirdar-deceased by his L.Rs:-

1A. Laxmibai w/o Shriniwasacharaya Jahagirdar, age 55, house-hold work of Padaganoor taluka Sindgi.

1B. Annachrya Shrinwasacharya Jahgirdar, 41, agriculturist and Bank Manager at Hyderbad (Deccan)

1C. Appacharya Shrinwasachrya Jahgirdar, 38, agriculturist of Padaganoor.

1D. Kristacharya Shrinwasachrya Jahagirdar, 21, agriculturis and student of do.

1F. Balucharya Shriniwasacharya Jahgirdar, age 19, agriculturist and student of do.

1E. Babacharya Shriniwasacharya Jahagirdar, 16, minor by his next friend (1B) Annacharya. ... Plaintiff

against.

Shri K.R.Rao, Dist.Govt.Pleader

1. The Province of Bombay ... Defendant.

Claim Rs. 5/-.

Judgment.

The suit for a declaration that the plaintiff is liable

to pay only a sum of Rs.220-3-6 on account of local fund cess and for a direction to the Government of Bombay not to recover any sum in excess of Rs.220-3-6 and for incidental reliefs.

2. The plaint is based on the following allegations:

(a) "..... This agreement between the plaintiff and his bhaubands has been recognised and acted upon by the defendant also since the partition of 1869. The defendant has since 1869 been recovering judi and local fund cess on this very basis. The defendant is not, therefore, entitled to claim from the plaintiff any additional amount other than the amount of his share namely Rs.96-5-0 on account of local fund cess and Rs.122-3-6 as judi and Rs. 1-11-9 regarding shree Laxmi Temple, that is being recovered from him since 1869.

* In April 1948 the plaintiff learnt that the defendant had issued orders to the Collector of Bijapur for recovering some additional amount from the plaintiff on the basis of the assessment of the lands in his possession. The plff therefore submitted a petition to the defendant who have in their reply No.6031/45/28812-M.Revenue Department dated 11th June 1948 informed the plaintiff that the Government had decided to recover Local Fund from individual sub-sharers in propo tion to their assessment and excess amount so far recovered from the eight sub--sharers should be refunded after recovering the amount from the five sub-sharers who have been paying less.

(c) * In view of the tacit understanding between the Inamdars of Padagahur inter se and its recognition by the defendant and the practice followed both by the Inamdars and the defendant since 1869 the order of the defendant mentioned above is illegal and ultra vires. Hence this suit for a declaration that the order contained in No.6031/45/28812-M of the Revenue Department of the defendant is ultra vires and illegal and for a permenent injunction restraining the defendant from demading or recovering any amount in excess of Rs.220-3-6 which he has been

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paying since 1869".

3. The state of Bombay has raised the following pleas:

(a) The facts in paras 1 to 5 of the plaint are notcorrec-ly stated.Under an old partition the village was divid-ed into 3 equal shares of 0-5-4 each.The plaintiff was considered to be the principal Inamdar and the othertwo as sub-sharers.There came to be 12 sub-sharers due to partition among the 2 sub-sharers.

"The plaintiff and the 12 sub-sharers are required to pay Rs.292-4-0 as local fund cess annually at the rate of 2 annas per rupee on the total assessment.The plff as the principal Inamdar was held responsible for the payment of this cess and judi.The plaintiff used to recover this cess from the sub-sharers not on the basis of assessment but under an old arrangement.Disputes as to the distribution of the surplus amount of rent arose among the plaintiff and the sub-sharers and so the Government under its G.R.R.D.No.7722/24, dated 19th August 1949 directed that the sub-sharers should get their share of rent in proportion to their respective shares and each of them was directed to pay the judi individually.

" The Local Authorities failed to give effect to this G.R. and one of the Sub-sharers Naranacharaya pepresent-ed to the Government that local fund was recovered from him not on the basis of the assessment payable by him but in excess. The Government under its No.6031/45/ 17908-M dated 18th June 1948 directed the Collector to recover cess from sub-sharers in proportion to the assessment payable by them. This order of the Government is as per section 75 and section 93(1)(a) of the Bombay Local Board Act of 1923. The contention of the plaintiff that under the old arrangement he is not required to pay cess on the basis of the assessment and his suit for a declaration that the said order of the Revenue

Department is illegal and ultra vires is not tenable. So this suit for ~~xx~~ declaration and injunction is not maintainable".

4. The following issues were framed in the case:-

1. Whether the plaintff is liable to pay a sum of Rs.220-3-6 only on account of judi and local Fund cess ?

2. Whether the order of Government to recover additional amount is ultra vires and illegal ?

3. Whether Government is entitled to recover cess from the sub-shares in proportion to the assessment payable by them as contended in the written-statement ?

4. What orders ?

5. My findings are:-

1. Is liable to pay a higher sum.

2. No.

3. Yes.

4. General issue.

Reasons.

6. The points of law involved in this suit turn upon certain facts which are not in dispute. Padaganur is an "alinated" village, and the Sanad was granted to plaintiff's uncle one Ramkeshavacharya Varada Venkatacharya Adya Jahagirdar. The plaint is based on the following allegations:-

" The first partition in the family in the year 1869 was effected on the basis of the fertility and yield of the lands and not on the basis of the acreage and assessment of the lands. It was therefore specifically agreed between the parties to the partition that the Government dues namely Judi and Local Fund cess etc. regarding the village should be paid by the sharers in proportion to their shares in the Inam and not on the basis of assessment of the lands assigned to their share. This practice is being follwing since 1869 and is admitted by all the sub--sharers in their subsequent partitions among their branches and all the sharers have admitted this practice in their statements at the time of the introduction of the Record of Rights in Padaganur village in 1925.

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" This agreement between the plaintiff and his bhaubands ~~I in April 1948 the plaintiff learnt that the defendant~~ has been recognised and acted upon by the defendant also ~~since~~ since the partition of 1869. The defendant has since 1869 been recovering judi and local fund cess on this very basis. The defendant is not therefore entitled to claim from the plaintiff any additional amount other than the amount of his share viz:, ~~judi~~ Rs.96-5-0 on account of local fund cess and Rs.122-3-6 as judi and Rs.1-11-0 re: shree Laxmi Temple, that is being recovered from him since 1869.

" In April 1948 the plaintiff learnt that the defendant had issued orders to the collector of Bijapur for recovering some additional amount from the plaintiff on the basis of the assessment of the lands in his possession. The plaintiff, therefore, submitted a petition to the defendant who have in this reply No.6031/45/28812-M Revenue Department dated 11th June 1948 informed the plaintiff that the Government had decided to recover local fund from individual sub-sharers in proportion to their assessment and the excess amount so for recovered from the eight sub sharers should be refuned after recovering the amount from the five subsharers who have been paying less.

" In view of the tacit understanding between the Inamdars of Padaganur inter se and its recognition by the defendant and the practice followed both by the Inamdars and the dfendant since 1869 the order of the defendant mentioned above is illegal and ultra vires. Hence this suit for a declaration that the order con ained in No.6031/45/28812-M of the Revenue Department of the defendant is ultra vires and illegal and for a permanent injunction restraining the defendant from demanding or recovering any amount in ecess of Rs.220-3-6 which he has been paying since 1869".

(7). The Government of Bombay has taken the following points:-

" one of the sub-sharers Naranacharya represented to the Government that local fund was recovered from him not on

the basis of the assessment payable by him but in excess. The Government under its No.603145/17908-M, dated 18th June 1948 directed the Collector to recover cess from the sub-sharers in proportion to the assment payable by them. This order of the Government is as per section 75 and section 93(1)(a) of the Bombay Local Board Act of 1923".

(8). Therefore, the ground alleged against Government is that pursuant to the partition effected in 1869, the plff's branch is accountable for a sum of Rs.220-3-6 only on account of local fund cess. As against this, the Government of Bombay contends that the cess is fixed on the total amount of assessment of the lands in the possession and enjoyment of the plff and that Government is entitled to fix the cess on the amount of assessment of lands under section 94(a) of the Local Boards Act, 1923.

(10). Under section 93 of the Bombay Local Boards Act, 1923, the Provincial Government shall levy a cess on an application of the district local board, not exceeding to annas, on every rupee of every sum which would have been assessable on any land as land revenue had there been no alination of land-revenue.

(11). Under section 94," in the assessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879, (a) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder"

(12). The question that has been argued before me by Mr.Kankanwadi on behalf of the plaintiff is that the partition of 1869 contains a provision to the effect that the cess shall be recovered on the basis of their respective shares and not on the basis of the total amount of assessment of lands in their possession, that the Government of Bombay without objection recovered cess in the past in accordance with the partition deed and that the Government of Bombay cannot now recover cess

Boards Act 1923 empowers Government to fix cess on the total amount of assessment of the village. If the coparceners deem it expedient to divide the village pursuant to a partition, such a position does not deprive Government of any rights that it might have under the law of fixing the cess on the total amount of assessment. Subject to the provisions of section 94, Government have the same powers and can follow the same procedure and recover from the plaintiff's share cess on the total amount of assessment of the lands in their possession. It cannot be said that the amount has been wrongly recovered by Government, because the amount is really recovered on the amount of assessment. The amount ~~is~~ sought to be recovered from the plaintiff is a proper claim under section 94. The plaintiff is at liberty to recover the excess amount in his turn from the respective sharers pursuant to the provisions of the partition deed.

16. In the result, the suit fails and is dismissed with costs.

December 13, 1950.

d. A.C.Sequeira.
Civil Judge, Sr.Dn.,

" True Copy "

Dist.Govt.Pleader, Bijapur.

on the basis of the total amount of assessment of the lands in the occupation of the plaintiff.

(13). To my mind, there can be no estoppel against an act of the Legislature. No estoppel can be pleaded against the directions and prohibitions enacted by the Statute Law and against the rights accruing to any party by reason of such directions and prohibitions.

(14). It is observable that the rule of estoppel depends for its application on certain questions of fact. The fact of the matter is that the Government was not a party to the partition deed. Another thing is that Government did not induce the plaintiff raising estoppel to alter his position to his detriment. The position here is that the plaintiff in the past had been paying a sum by way of cess less than the amount payable on the basis of the total amount of assessment of lands in his possession. In other words, the following elements are absent which are necessary in order to constitute a valid estoppel by representation.

(a) That the party sought to be estoppel, or some person for whose representations such party is in law responsible, made a representation:

(b) That the case which the party is sought to be estopped from making, setting up, or attempting to prove, contradicts in substance his original representation:

(c) That such original representation was of a nature to induce and was made with the intention of inducing, the party raising the estoppel to alter his position to his detriment:

(d) That the party raising the estoppel actually altered his position to his detriment on the faith of such original representation:

(e) That the original representation was made to the party setting up the estoppel, or to some person in right of whom he claims.

(15). As stated already, section 84 of the Bombay Local

D E C R E E

Civil Suit No.608 of 1949.

In the Court of the Civil Judge, Senior Division
Bijapur

1. Shrinivascharya Annacharya Jahggirdar
Brahmin, agriculturist, age 70 of
Padaganur taluka Sindgi.District Bijapur
Deceased by his L.Rs.

1A. Laxmibai [illegible]bhratar Shrinivasachary
Jahagirdar age 55. household work of
Padaganur taluka Sindgi.

1B. Annachara Shrinivasacharya Jahagirdar
age 41. agriculturist and Bank Manager
at Hyderabad(Deccan)

1C. Appacharya Shrinivasacharya Jangirdar
age 38, agriculturist of Padaganur
taluka Sindgi.

1D. Krishtacharya Shrinivasacharya Jahagirda
age 21, agriculturist & student of Do.

1E. Raghavacharya Shrinivasacharya Jahagirdar 21, [illegible]

1F. Balacharya Shrinivasacharya Jahagirdar age 18
agriculturist & student of Do.

Babacharya Shrinivasacharya Jahagirdar
age 16 minor by his next friend (1B) Annachary
Plaint amended as per order on Exh.12. plaintiff

The Province of Bombay summons to be
served on District Govt.Pleader.Bijapur.
Defendant.

Claim Rs.5/-

The plaintiff abovenamed begs to submit as under:

1. The village of Padaganur is Surva Inam to the plff and his bhaubands.The Sanad regarding the grant of the Inam was given to Ramakeshawacharya Varada Venkatacharay Adya Jahagirdar who was the paternal uncle of the plaintiff. According to the Sanad the plaintiff and his bhaubands are the full owners of the soil and the lands are exempt from the payment of the assessment and are liable to pay only Judi and Local Fund Cess.

2. The first partition in the family in the year 1869 was effected on the basis of the fertility and yield of the lands and not on the basis of the acreage and assessment of the lands. It was therefore specifically agreed between the parties to the partition that the Government dues namely Judi and Local Fund cess etc. regarding the village should be paid by the sharers in proportion to their share in the Inam and not on the basis of the assessment of the lands assigned to their share. This practice is being followed since 1869 and is admitted by all the sub-sharers in their subsequent partitions among their braches and all the sharers have admitted this practice in their statements at the time of the introduction of the record of Rights in Badaganur village in 1925.

3. This agreement between the plaintiff and his bhaubands has been recognised and acted upon by the defendant also since the partition of 1869. The defendant has since 1969 been recovering Judi and Local Fund Cess on this very basis. The defendant is not therefore entitled to claim from the plaintiff any additional amount other than the amount of his share namely Rs.96-5-0 on account of Local Fund Cess and Rs.122-3-6 as Judi and Rs. 1-11-0 Shree Laxmi Temple, that is being recovered from him since 1869.

In April 1948 the plaintiff learnt that the defendant had issued orders to the Collector of Bijapur for recovering some additional amount from the plaintiff on the basis of the assessment of the lands in his possession. The plaintiff therefore submitted a petition to the defendant who have in their reply No.6031/45/28812-M Revenue Department dated 11th June 1948 informedthe plaintiff that the Government had decided to recover Local Fund from individual sub sharers in proprotion to their assessment and the excess amount so far recovered from the eight sub sharers should be refunded after recovering the amount from the five sub sharers who have been paying less.

5. In view of the tacit under standing between the

Inamdars of Padganur inter se and its recognition by the defendant and the practice followed both by the inadars and the defendant since 1860 the order of the defendant mentioned above is illegal and ultravires. Hence this suit for a declaration that the order contained in No.6031/45/28812-M of the Revenue Department of the defendant is ultra vires and illegal and for a permanent injunction restraining the defendant from demanding or recovering any amount in excess of Rs.220-3-6 which he has been paying since 1869.

6. Cause of action arose in April 1948 when the defendant issued the order for recovering additional amount from the plaintiff and in June 1948 when the cause was communicated to the plaintiff.

7. The suit being one for declaration that the defendant is entitled to Rs.220-3-6 only from the plaintiff and that his order to collect any higher amount from the plaintiff is ultravires and illegal and for a permanent injunction restraining the defendant from enforcing this order against the plaintiff, is valued at Rs. five only for the purposes of Court fee and jurisdiction. Fixed Court fee of Rs 5/- and surcharge Rs.1-4-0 in all Rs.6-4-0 are paid.

8. The parties reside within the jurisdiction of this Court and the cause of action has accrued at Padaganur within the jurisdiction of this Court. Hence this Court has jurisdiction to try this suit.

9. Notice of this suit dated 10th July 1948 was delivered to the Collector.

The plaintiff prays :-

A. That it may be declared that the plaintiff is liable to pay Rs.220-3-6 only on account of judi and Local Fund cess due for his share in the Inam lands at Padaganur Taluka Sindgi and hence the order of the defendant for recovering any additional amount from him is ultravires and illegal.

B. That a permanent injunction be issued to the defendant restraining him from enforcing this order mentioned in para 4 of the plaint against the plaintiff.

That the costs of this suit be awarded to him from the defendant, and

D That any other relief or reliefs arising from the pleadings be granted.

Suit came for hearing today 13-12-1950 before, Shri A.C.Sequeira, Civil Judge, Senior Division, in the presence of Shri Kurandgwad and A.B.Kankanwadi for the plaintiff and Shri K.R.Rao for the defendant and the suit is decree as under:-

In the result, the suit fails and is dismissed with costs.

BILL OF COSTS.

Plaintiff.		Defendant.	
1.Plaint.	6-4-0.	Stamps to exhs. 6,8& 10.	1-14-0.
2. Vakalat.	0-10-0.	Pleader's fee.	15-0-0.
3. Pleader's fee.	15-0-0.		16-14-0.
4. Process fee.	3-14-0.		
5. Stamps to exhs. 1,12,15,21 &23.	3- 2-0.	Stamps to Exhs. 6,8,& 10 deducted.	1-14-0.
	28-14-0.	Total:-	15-0-0.
Stamps to Exhs. 9,12,15,21,23 deducted.Total:-	3- 2-0. 25-12-0.		

Given under my hand and seal of the Court this day the 13th December 1950.

Sd.S.H.Desai.
clerk.

Sd.A.C.Sequeira.
Civil Judge,Sr.Dn.,
9-1-1951. Bijapur.

True copy

Dist.Govt.Pleader.Bijapur.

Received on - 5-11-1949.
Registered on 25-11-1949.
Decided on 13-12-1950.
Duration 1-1-8.

In the Court of the Civil Judge, Sr.Dn.,
At Bijapur.

Civil Suit No 608 of 1949

Shri A.B.Kankanwadi. & G.K.Kurandwad.

1. Shriniwasacharya Annacharaya Jahagirdar-deceased by his L.Rs:-

1A. Laxmibai w/o Shriniwasacharaya Jahagirdar, age 55, house-hold work of Padaganoor taluka Sindgi.

1B. Annachrya Shrinwasacharya Jahgirdar, 41, agriculturist and Bank Manager at Hyderbad (Deccan)

1C. Appacharya Shrinwasachrya Jahgirdar, 38, agriculturist of Padaganoor.

1D. Kristacharya Shrinwasachrya Jahagirdar, 21, agriculturist and student of do.

1E Raghwacharya Shriniwasacharya Jahagirdar

1F. Balucharya Shriniwasacharya Jahgirdar, age 19, agriculturist and student of do.

1G. Babacharya Shriniwasacharya Jahagirdar, 16, minor by his next friend (1B) Annacharya. ... Plaintiffs.

against.

Shri K.R.Rao, Ist.Govt.Pleader.

1. The Province of Bombay ... defendant.

Claim Rs. 5/-

Judgment.

~~The plaintiff~~

The suit for a declaration that the plaintiff is liable

to pay only a sum of Rs.220-3-6 on account of local fund cess and for a direction to the Government of Bombay not to recover any sum in excess of Rs.220-3-6 and for incidental reliefs.

2. The plaint is based on the following allegations:

(a) "..... This agreement between the plaintiff and his bhaubands has been recognised and acted upon by the defendant also since the partition of 1869. The defendant has since 1869 been recovering judi and local fund cess on this very basis. The defendant is not, therefore, entitled to claim from the plaintiff any additional amount other than the amount of his share namely Rs.96-5-0 on account of local fund cess and Rs.122-3-6 as judi and Rs. 1-11-9 regarding shree Laxmi Temple, that is being recovered from him since 1869

(b) " In April 1948 the plaintiff learnt that the defendant h issued orders to the Collector of Bijapur for recovering some additional amount from the plaintiff on the basis of the assessment of the lands in his possession. The plff therefore submitted a petition to the defendant who have in their reply No.6031/45/28812-M Revenue Department dated 11th June 1948 informed the plaintiff that the Government had decided to recover Local Fund from individual sub sharers in proportion to their assessment and excess amount so far recovered from the eight sub-sharers should be refunded after recovering the amount from the five sub-sharers who have been paying less.

(c) " In view of the tacit understanding between the Inamdars of Padaganur inter se and its recognition by the defendan and the practice followed both by the Inamdars and the defendant since 1869 the order of the defendant mentioned above is illegal and ultra vires. Hence this suit for a declaration that the order contained in No.6031/4 28812-M of the Revenue Department of the defendant is ultra vires and illegal and for a permenent injunction restraining the defendant from demading or recovering any amount in excess of Rs.220-3-6 which he has been

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paying since 1869".

3 The state of Bombay has raised the following pleas:

(a) " The facts in paras 1 to 5 of the plaint are notcorrect -ly stated.Under an old partition the village was divid- -ed into 3 equal shares of 0-5-4 each.The plaintiff was considered to be the principal Inamdar and the otherts as sub-sharers,There came to be 12 sub-sharers due to partition among the 2 sub-sharers.

(b). "The plaintirr and the 12 sub-sharers are required to pay Rs.292-4-0 as local fund cess annually at the rate of 2 annas per rupee on the total assessment.The plff as the principal Inamdar was held responsible for the payment of this cess and judi.The plaintiff used to recover this cess from the sub-sharers not on the basis of assessment but under an old arrangement.Disputes as to the distribution of the surplus amount of rent arose among the plaintiff and the sub-sharers and so the Government under its G.R.R.D.No.7722/24, dated 19th August 1949 directed that the sub-sharers should get their share of rent in proportion to their respective shares and each of them was directed to pay the judi individually.

" The Local Authorities failed to give effect to this G.R. and one of the Sub-sharers Naranacharaya represent- -ed to the Government that local fund was recovered from him not on the basis of the assessment payable by him but in excess. The Government under its No.6031/45/ 17908-H dated 18th June 1948 directed the Collector to recover cess from sub-sharers in proportion to the assessment payable by them. This order of the Government is as per section 75 and section 93(1)(a) of the Bombay Local Board Act of 1923. The contention of the plaintiff that under the old arrangement he is not required to pay cess on the basis of the assessment and his suit for a declaration that the said order of the Revenue

spartment is illegal and ultra vires is not tenable.

) this suit for ~~xx~~ declaration and injunction is not

aintainable".

The following issues were framed in the case:-

1. Whether the plaintff is liable to pay a sum of Rs.220-3-6 only on account of judi and local Fund cess ?

2. Whether the order of Government to recover additional amount is ultra ~~vires~~ and illegal ?

3. Whether Government is entitled to recover cess from the sub-shares in proportion to the assessment payable by them as contended in the written-statement ?

4. What orders ?

My findings are:-

1. Is liable to pay a higher sum.

2. No.

3. Yes.

4. General issue.

Reasons.

6. The points of law involved in this suit turn upon certain facts which are not in dispute. Padaganur is an "alinated" village, and the Sanad was granted to plaintiff's uncle one Ramkeshavacharya Varada Venkatacharya Adya Jahagirdar. The plaint is based on the following allegations:-

" The first partition in the family in the year 1869 was effected on the basis of the fertility and yield of the lands and not on the basis of the acreage and assessment of the lands. It was therefore specifically agreed between the parties to the partition that the Government dues namely Judi and Local Fund cess etc. regarding the village should be paid by the sharers in proportion to their shares in the Inam and not on the basis of assessment of the lands assigned to their share. This practice is being follwing since 1869 and is admitted by all the sub--sharers in their subsequent partitions among their branches and all the sharers have admitted this practice in their statements at the time of the introduction of the Record of Rights in Padaganur village in 1923.

2-7 69

" This agreement between the plaintiff and his bhaubands ~~In April 1948 the plaintiff learnt that the defendant~~ has been recognised and acted upon by the defendant also since the partition of 1869. The defendant has since 1869 been recovering judi and local fund cess on this very basis. The defendant is not therefore entitled to claim from the plaintiff any additional amount other than the amount of his share viz:, ~~judi~~ Rs.96-5-0 on account of local fund cess and Rs.122-3-6 as judi and Rs.1-11-0 re: shree Laxmi Temple, that is being recovered from him since 1869.

" In April 1948 the plaintiff learnt that the defendant had issued orders to the collector of Bijapur for recovering some additional amount from the plaintiff on the basis of the assessment of the lands in his possession. The plaintiff, therefore, submitted a petition to the defendant who have in this reply No.6031/45/28812-M Revenue Department dated 11th June 1948 informed the plaintiff that the Government had decided to recover local fund from individual sub-sharers in proportion to their assessment and the excess amount so for recovered from the eight sub sharers should be refuned after recovering the amount from the five subsharers who have been paying less.

" In view of the tacit understanding between the Inamdars of Padaganur inter se and its recognition by the defendant and the practice followed both by the Inamdars and the dfendant since 1869 the order of the defendant mentioned above is illegal and ultra vires. Hence this suit for a declaration that the order con ained in No.6031/45/28812-M of the Revenue Department of the defendant is ultra vires and illegal and for a permanent injunction restraining the defendant from demanding or recovering any amount in ecess of Rs.220-3-6 which he has been paying since 1869".

(7). The Government of Bombay has taken the following points:-

" One of the sub-sharers Naranacharya represented to the Government that local fund was recovered from him not on

the basis of the assessment payable by him but in excess. The Government under its No.603/45/17908-M, dated 18th June 1948 directed the Collector recover cess from the sub-sherers in proportion to the assment payable by them.This order of the Government is as per section 75 and section 93(1)(a) of the Bombay Local Board Act of 1923".

(8). Therefore, the ground alleged against Government is that pursuant to the partition effected in 1869, the plff's branch is accountable for a sum of Rs.220-3-6 only on account of local fund cess. As against this, the Government of Bombay contends that the cess is fixed on the total amount of assess-ment of the lands in the possession and enjoyment of the plff and that Government is entitled to fixthe cess on the amount of assessment of lands under section 94(a) of the Local Boards Act, 1923.

(10). Under section 93 of the Bombay Local Boards Act, 1923, the Provincial Government shall levy a cess on an application of the district local board,not exceeding to annas, on every rupee of every sum which would have been assessable on any land as land revenue had there been no alinstion of land-revenue.

(11). Under section 94," in the assessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879, (a) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder".

(12). The question that has been argued before me by Mr.Kankanwadi on behalf of the plaintiff is that the partition of 1869 con ains a provision to the effect that the cess shall be recovered on the basis of their respective shares and not on the basis of the total amount of assessment of lands in their possession, that the Government of Bombay without objection recovered cess in the past in accordance with the partition deed and that the Government of Bombay cannot now recover cess

on the basis of the total amount of assessment of the lands in the occupation of the plaintiff.

(13). To my mind, there can be no estoppel against an act of the Legislature. No estoppel can be pleaded against the directions and prohibitions enacted by the Statute Law and against the rights accruing to any party by reason of such directions and prohibitions.

(14). It is observable that the rule of estoppel depends for its application on certain questions of fact. The fact of the matter is that the Government was not a party to the partition deed. Another thing is that Government did not induce the plaintiff raising estoppel to alter his position to his detriment. The position here is that the plaintiff in the past had been paying a sum by way of cess less than the amount payable on the basis of the total amount of assessment of lands in his possession. In other words, the following elements are absent which are necessary in order to constitute a valid estoppel by representation.

(a) That the party sought to be estopped, or some person for whose representations such party is in law responsible made a representation:

(b) That the case which the party is sought to be estopped from making, setting up, or attempting to prove, contradicts in substance his original representation:

(c) That such original representation was of a nature to induce and was made with the intention of inducing, the party raising the estoppel to alter his position to his detriment:

(d). That the party raising the estoppel actually altered his position to his detriment on the faith of such original representation:

(e) That the original representation was made to the party setting up the estoppel, or to some person in right of whom he claims.

(15). As stated already, section 84 of the Bombay Local

Boards Act 1923 empowers Government to fix cess on the total amount of assessment of the village. If the coparceners deem it expedient to divide the village pursuant to a partition, such a position does not deprive Government of any rights that it might have under the law of fixing the cess on the total amount of assessment. Subject to the provisions of section 94, Government have the same powers and can follow the same procedure and recover from the plaintiff's share cess on the total amount of assessment of the lands in their possession. It cannot be said that the amount has been wrongly recovered by Government, because the amount is really recovered on the amount of assessment. The amount ~~is~~ sought to be recovered from the plaintiff is a proper claim under section 94. The plaintiff is at liberty to recover the excess amount in his turn from the respective sharers pursuant to the provisions of the partition deed.

16. In the result, the suit fails and is dismissed with costs.

Sd. A.C.Sequeira.
Civil Judge, Sr.Dn.,

December 13, 1950.

" True Copy "

Dist.Govt.Pleader, Bijapur.

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Suits.
Bijapur.

For a declaration that he is liable to pay only Rs.220-3-6 on account of Judi and Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Government directing the recovery of local fund cess from individual sub-sharers in proportion to their assessment as communicated to him in Government Letter, Revenue Department, No.6031/45/28812-M, dated the 11th June 1948 is illegal and ultra vires and for a permanent injunction restraining Government from enforcing the said order.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 1532
Bombay Castle, 24th January 1951.

Read Government Resolution Legal Department No.7007 dated the 23rd May 1950.

Endorsement from the District Government Pleader, Bijapur, No.848,

In the Court of the Civil Judge (Senior Division). Bijapur.		: dated the 19th
Civil Suit No.608 of 1949.		: December 1950,
Shrinivasacharya Annacharya Jahagirdar	Plaintiff	: stating that
Versus		
The State of Bombay	Defendant.	: the suit noted

in the margin was decided by the Civil Judge S.D. Bijapur, on 13th December 1950, when the following order was passed :-

" The suit fails ~~xxxxx~~ and is dismissed with costs"

Endorsement from the District Government Pleader, Bijapur, No.50, dated the 16th January 1951, forwarding uncertified copies of the judgment and decree.

RESOLUTION :- The result of the suit is recorded.

By order of the Governor of Bombay,

Original

E. P. BHAMGARA,
Additional Assistant Secretary to Government.

Issued
24/1

To
The Revenue Department,
The Collector of Bijapur,
The Dist. Government Pleader, Bijapur.

KUP.
23/1.

Drafted for Sign
23/1

Bombay,
for a declaration that he is liable to
pay Land Cess under S-C-OSS.Act on account of
local land ceased due to his having
the right to collect rent from the
tenants.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. [illegible]
Bombay Castle, [illegible] 1921.

Read Government Resolution Legal Department, No.[illegible] dated the [illegible] May 1921.

Endorsement from the District Government Pleader, Bijapur, No.[illegible]
dated the [illegible] forwarding unstamped copies of the Judgment
and decree.

RESOLUTION :- The result of the suit is reported.

To obtain the opinion of the Government Pleader, Bijapur.

A. V. BHANDARA,
Additional Assistant Secretary to Government.

To
The Revenue Department,
The Collector of Bijapur,
The Dist. Government Pleader, Bijapur.

[illegible]

In the Court of the Civil Judge (Senior Division). : dated the 19th
Bijapur. :
Civil Suit No.803 of 1919. : December 1920,
:
Shrinivasacharya Annacharya Jahagirdar Plaintiff : afsting that
Versus :
The State of Bombay Defendant. : the suit noted

in the margin was decided by the Civil Judge S.D. Bijapur, on 13th December 1920, when the following order was passed :-

" The suit is dismissed but in circumstances without costs.

Endorsement from the District Government Pleader, Bijapur, No.20,

dated the 16th January 1921, forwarding unstamped copies of the Judgment and decree.

RESOLUTION :- The result of the suit is reported.

To obtain the opinion of the Government Pleader, Bijapur.

A. V. BHANDARA,
Additional Assistant Secretary to Government.

To
The Revenue Department,
The Collector of Bijapur,
The Dist. Government Pleader, Bijapur.

Presented on 19-1-1951.
Sd.
C.O.C.

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Regular Civil Appeal No.90 of 1951.

In the Court of the District Judge,
At Bijapur.

1. Shriniwascharya Annacharya Jahagirdar
deceased by his legal representatives:-

1-A. Ladmibai w/o Shriniwascharya
Jahagirdar, age 55, household
work of Padaganur, taluka Sindgi.

1-B. Annacharya Shriniwascharya Jahagirdar
41, agriculturist and Bank Manager
at Hyderabad(Deccan).

1-C. Appacharya Shriniwascharay Jahagirdar,
38, agriculturist of do.

1-D. Kristacharya Shriniwascharya Jahagirdar
28, agriculturist and student of do.

1-E. Raghavacharya Shriniwascharya Jahagirdar
21, agriculturist of do.

1-F. Balacharya Shriniwascharay Jahagirdar
,age 19, agriculturist and student of do.

1-G. Babacharya Shriniwascharay Jahagirdar
16, monor by his next friend(1-B)
Annacharya.

Appellants
Original-plffs.

Vs.

(1). The Province of Bombay.

respondents.
Orig. deft.

Claim Rs.5/-

Being aggrieved by the judgment and decree passed by the Civil Judge,S.Dn.,Bijapur in Civil Suit No. 608 of 1949, the appellants beg to prefer this appeal on the following among other grounds:-

1. The judgment and decree of the lower court are contrary to law and documentary evidence in the case.

2. That the lower court has erred in holding that the appellants are exclusively liable to pay the additional L.F.cess at the prescribed rate over and above their 1/3rd share in Inam.

3. That the Lower court has erred in not holding that G.R.Nos. 6031/45/28812-M and 6031/45/17909-M are illegal and ultra vires.

4. That the lower court ought to have seen that the L.F. cess is fixed on the total annual of assessment of the eintire village and the whole body of the superior holders are

liable to pay the said total amount of the cess in lump sum.

5. The lower court ought to have seen that the village in question is an alienated village and that survey settlement has not been effected under chapter VII-A of the Bombay Land Revenue Code.

6. The lower court has erred in not holding that mode of recovery either of the judi or local fund cess in respect of an inam village is quite distinct from the one provided under the Land Revenue Code in respect of the un--alienated land and as such, no particular price of land is separately liable for any fraction of such Government dues.

7. That the lower court has erred in not giving due weight to the terms in the partition deed of 1869 which clearly embodies that each one of the three sub-heads should pay or contribute equally towards any kind of the Government dues.

8. That the lower court ought to have taken into consideration that L.F.cess is being recovered so long by the respondent in three equal proportion from the three respective branches.

9. That the lower court has erred in ignoring the un-equvocal admissions made in the year 1925 or even there-after of all sub-sharers to pay the L.F. cess accordingly.

10. That the lower court has not properly construed and given effect to the various orders of the officiers concerned which have confirmed and acquiesced in the arrangement of the parties and the long standing mode of recovery.

11. That the lower court ought to have held that the respondent has definitely conceeded the respective liability of three branches by their conduct as well as by their previous record.

12. That the lower court has failed to see that the respondent has no power to change the fixed liability by the lapse of more than 60 years and that it ought to have held that the Bombay Local Boards Act of 1923 has not conferred on the respondent any such right.

On these among other grounds, it is humbly prayed that the decree of the lower court be set aside with costs and it is further prayed that the declaration as prayed be granted to the appellants.

Bijapur.
Date 16th January 1951.

Sd. R.K.Kavi.
Sd. K.G.Kurandwad.
Pleaders for the appellants

"True Copy"

Dist.Govt.Pleader,Bijapur.
28-3-1951.

Suits. Bijapur.
For a declaration that he is liable to pay only Rs. 220-3-6 on account of Judi and Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Government directing the recovery of local fund cess from individual sub-shares in proportion to their assessment as communicated to him in Government letter, Revenue Department No. 6031/45/28812-M, dated the 11th June 1948 is illegal and ultra vires and for a permanent injunction restraining Government from enforcing the said order.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 72-10
Bombay Castle, 7th May 1951.

Read Government Resolution, Legal Department, No. 1532,

In the Court of the Civil Judge (Senior Division) Bijapur.	:	dated 24th January 1951 a copy of the letter
Civil Suit No. 608 of 1949.	:	
Shrinivasacharya Annacharya Jahagirdar.. Plaintiff versus The State of Bombay . . . . Defendant.	:	

from the District Government Pleader, Bijapur, No. 211 dated 28th March 1951 requesting Government's sanction to the defence of the Civil Appeal No. 90/1951 filed by the plaintiff in the suit noted in the margin.

Letter from the Collector of Bijapur, No. LAW 197, dated nil forwarding the above.

RESOLUTION :- Sanction is accorded to the defence of Civil Appeal No. 90/1951 in the Court of the District Judge, Bijapur, on the lines of the brief accompanying Government Resolution, Legal Department, No. 7007, dated 23rd May 1950 and the favourable grounds contained in the Judgment of the Civil Judge, (Senior Division), Bijapur dated 13th December 1950.

By order of the Governor of Bombay,

(R.T. Katarki),
Deputy Secretary to Government.

To
The Collector of Bijapur,
The District Government Pleader, Bijapur.

Submitted for signature.

D.S.

Bombay Castle, 4th May 1951.

Read Government Resolution, Legal Department, No. 1552, dated 24th January 1951 in the Court of the Civil Judge (Senior Division), Bijapur.

Civil Suit No. 508 of 1949. : a copy of the Letter from the District Government Pleader, Bijapur, No. 211 dated 28th March 1951 requesting Government's sanction to the defence of the Civil Appeal No. 90/1951 filed by the plaintiff in the suit noted in the margin.

Letter from the Collector of Bijapur, No. LAW 197, dated 1st forwarding the above.

RESOLUTION :- Sanction is accorded to the defence of Civil Appeal No. 90/1951 in the Court of the District Judge, Bijapur, on the lines of the brief accompanying Government Resolution, Legal Department, No. 7907, dated 23rd May 1950 and the Government Pleader, Bijapur, is informed accordingly.

By Order of the Governor of Bombay,

Deputy Secretary to Government.

To

The Collector of Bijapur.
The District Government Pleader, Bijapur.

Suit No. 508 of 1949.

In the Court of the Civil Judge (Senior Division) Bijapur.

Shrinivasacharya Annacharya Tabaldar.. Plaintiff

versus

The State of Bombay Defendant.

GOVERNMENT OF BOMBAY, 25/

Legal Department.

Resolution No. 7-10

Bombay Castle, 4th May 1951.

Read Government Resolution, Legal Department, No. 1552, dated 24th January 1951 in the Court of the Civil Judge (Senior Division) Bijapur.

Civil Suit No. 508 of 1949. : a copy of the Letter from the District Government Pleader, Bijapur, No. 211 dated 28th March 1951 requesting Government's sanction to the defence of the Civil Appeal No. 90/1951 filed by the plaintiff in the suit noted in the margin.

Letter from the Collector of Bijapur, No. LAW 197, dated 1st forwarding the above.

RESOLUTION :- Sanction is accorded to the defence of Civil Appeal No. 90/1951 in the Court of the District Judge, Bijapur, on the lines of the brief accompanying Government Resolution, Legal Department, No. 7907, dated 23rd May 1950 and the Government Pleader, Bijapur, is informed accordingly.

By Order of the Governor of Bombay,

Deputy Secretary to Government.

To

The Collector of Bijapur.
The District Government Pleader, Bijapur.

Suit No. 508 of 1949.

In the Court of the Civil Judge (Senior Division) Bijapur.

Shrinivasacharya Annacharya Tabaldar.. Plaintiff

versus

The State of Bombay Defendant.

GOVERNMENT OF BOMBAY, 25/

Legal Department.

Resolution No. 7-10

Bombay Castle, 4th May 1951.

Read Government Resolution, Legal Department, No. 1552, dated 24th January 1951 in the Court of the Civil Judge (Senior Division),

97.

Received on 19-1-1951.
Registered on 17-2-1951.
Decided on 28-3-1952.

In the District Court of Bijapur at Bijapur.

Appeal No. 90 of 1951 from decree in Ex. 10.

Civil Suit No. 608 of 1949 of the Court of the Civil Judge, Senior Division of Bijapur (Shri A.C.Sequeira).

Pleaders.

Shri R.N.Kavi.

(1) Shrinivasacharya Annacharya Jahagirdar deceased by his legal representatives
1A. Laxmibai w/o Shrinivasacharya Jahagirdar.
1B. Annacharya Srinivasacharya Jagirdar.
1C. Appacharya Srinivasacharya Jagirdar.
1D. Krustacharya Srinivasacharya Jagirdar.
1E. Raghavacharya Srinivasacharya Jagirdar.
1F. Balacharya Srinivasacharya Jagirdar.
1G. Babacharya Srinivacharya Jagirdar. ....appellants. (Original plffs).

T[illegible] Govt. p[illegible]ader.

1. The Province of Bombay. Respondent (Original Deft).

Claim Rs 5/-.

This is an appeal by the plaintiff's legal repre-sentatives from a decree dismissing the suit filed against Government for declaration and injunction.

2. Padaganur is an alienated village granted in Inam to the plff's family. A sanad was given to the plff's uncle Ramakeshavacharya Varadavenkatacharya Adya Jahagirdar. In 1869 a partition took place in the family. The lands were divided, but it was agreed that local fund should be paid on the basis of the shares of the co-sharers in the Inam land and not on the basis of assessment. The various co-sharers have been paying their dues on that basis. The plff had been paying Rs 96-5-0 for local fund, Rs 122-3-6 as Judi and Rs 1--11-0 regarding Shri Laxmi temple. That means, the plff has been paying Rs 220-3-6 to Government. The local fund was being paid at the rate of 2 annas per ruppe.

3. In 1925, record of rights was introduced in that village. In 1945, one co-sharer viz. Narayanacharya, repres-ented to Government that local fund was being recovered not on the basis of assessment and that therefore he was required to pay more. On June 18, 1948, the Government passed an order No. 6031/45/17908 M that all the co-sharers should pay cess to Government on the basis of assessment.

4. It is therefore that this suit has been filed against Government for a declaration that the plff is liable to pay nothing more than Rs 220-3-6. The suit has been based on the allegation that the arrangement agreed upon between the co-sharers at the time of the partition has been recognised by Government, that the Government is estopped and also that the Government's order is ultra vires.

5. The Government contended inter alia, that the order passed by it was according to law and that it was not ultra vires.

6. The learned trial Judge held that the Government Orders were not ultra vires, that they had a right to receive cess from sharers on the basis of assessment and that therefore the plff was liable to pay more than Rs 220-3-6. This decree was passed against the legal representatives of the plff, who had died pending suit, and this appeal has been filed by the said legal representatives.

7. Two points have been urged by the learned pleader for the appellants :

(1) Local fund cess can be recovered by Govt on the basis of the total amount of assessment of the whole village and not from the Kabjedar of each land. (2) The Government is estopped from varying the practice of recovering the cess on the basis of the shares of several co-sharers.

8. I decide both these points against the appellant for the following reasons.

9. Under Sec. 93(1)(b) of the Bombay Local Boards Act, 1923, the Provincial Govt. has to levy a cess at the rate of 3 annas on every rupee of every sum which would have been assessable <u>on any land</u> as land revenue had there been no alienation of land revenue. That means that even if there is alienation of land revenue as in the case of Inam villages, local fund cess can be levied by Government at the rate of 3 annas on one rupee of land revenue on a particular land. Of course, section 94 deals with the assessment of the local fund cess on alienated villages and section 94(1)(a) provides that if the village has been surveyed

and assessed, the cess shall be fixed on the total amount of assessment of the village. But that only gives the total local fund cess that the Government can recover from an alienated village. That cannot preclude the Government from recovering that cess from each land separately. But assuming that Government can recover the cess on the assessment of the whole village, I fail to understand how that position can help the present appellants. It is argued for them that the Government can recover the whole cess from anyone of the co-sharers by holding them jointly and severally liable to pay the whole of it. But that means that it is the choice of the Government to recover the whole or any part of the cess from any co-sharer it pleases. That means that the Government can recover the entire amount or any part of the amount from the present appellants who in their own turn might recover from the other co-sharers the amount due from them as contribution. If that be so, I do not think that it would be possible to present Government from recovering from the plff any amount in excess of Rs 220-3-6. So on the argument advanced for the appellants themselves, they deserve to be nonsuited.

10. The second question is whether the Government can b estopped from varying the long-standing practice. It appears that the Government has been recovering local fund from several co-sharers as they paid it. It also appears that payment was being made according to the terms of the partition between the co-sharers. But Government was not a party to that partition. And it cannot be said that they have made any representation to the co-sharers that it will accept local fund cess on a particular basis without any alteration. There was no dispute between the co-sharers. They came and paid to Government some amount in fixed shares and so long as the Government was recovering the entire cess that was due to it, it did not worry as to how much each one was paying. Thereafter, one co-sharer (Narayanacharya) complained to Government that he was

required to pay more. Then the Government applied its mind and decided that each co-sharer should pay on the basis of the assessment on the lands of his share. I do not see how in these circumstances it can be said that the Government is estopped from changing the arrangement.

11. I do not think that the order passed by the Government is ultra vires. In fact, the Government cannot say that it would accept ay cess disproportion to the land revenue on any particular land. They are empowered under section 93 of the Act to recover 3 annas ~~x~~ of each rupee of assessment on each land. If they insist upon recovering something more from a particular co-sharer, he can easily defy the order of Government and get it set aside, because the Government cannot ask him to pay more than 3 annas on one rupee of assessment in respect of his land. In these circumstances, it is not easy to understand how the Government can be said to be estopped.

12. It is urged for the appellants that the plffs are required to pay more Judi ad that therefore lesser local fund cess should be accepted from them. But that is in pursuance of the agreement of partition between the parties and Government cannot take into account this private arrangement between the parties and levy higher local fund cess from co-sharer who has been paying lesser Judi. What the Government can seek to recover is, as stated above, 3 annas on one rupee of assessment. So I do not think that the Government has made any mistake in passing the order as it did on June 18, 1948 or that the order is ultra vires.

13. In the result, the appeal fails and is dismissed with costs.

28th March 1952.

Sd/- N.S.Shrikhande.
District Judge.

True copy.
Ahusadi
Dist.Govt.Pleader,Bijapur.

2522—13,000—6-49 – R(a)*

Civ. A 42 k.

ಅಪೀಲಿನೊಳಗಿನ
ಹುಕುಮುನಾಮೆಯು
(ಆರ್ಡರ ೪೧, ರೂ. ೩೫).

(ಫಾರ್ಮ ನಂಬರು ೯
ಪರಿಶಿಷ್ಟಗ, ಶಿಡ್ಯೂಲ್ ೧)

ಹುಕುಮನಾಮೆಯು

ಎಲಾಹಿನ ಇಲ್ಲಿಯ ಪ್ರಿನ್ಸಿಪಲ್ ಜಜ್ಜ ಕೋರ್ಟ ನಲ್ಲಿ.

ಮುಕಾಮು ಎಲಾಹಿನ ಇಲ್ಲಿ. ನಿ॥ ೧೧.

ಸೀ ಅಪೀಲ ಮೊಕದಮೆ ನಂಬರು ೬೦ ೧೯೩೧ನೇ ಪೈಕಿ

ಈ ಎಲಾಹಿನ ಮಾಲಾಜಿ ಅಂಬಾಜಿ ಮಾಳಗಿ

ಅಪೀಲಿಗ.

(ಅ). ಪೈಲು ಬಾರದಿರಲಾಗಿ.

(ಆ) ಪೈಲು ಬಾಂತಿ ನಂತರ ಗೈರಹಾಜರಿ ಮಾಡಿದ್ದಕ್ಕಾಗಿ ಅಪೀಲಿಂಟ
ಬಾಬತ್ತಿನ ಅರ್ಜಿ ೫೧, ಮಂಜೂರು ಮಾಡಿ ಅರ್ಜಿದಾರನಿಗೆ ಮೊದಲನೇ
ಅಲ್ಲ ಸ್ಥಾನಕ್ಕೆ.)

(ಇ) ಮೊದಲು ಮಾಡಿದ್ದಕ್ಕಾಗಿ ಅಪೀಲಿಗ ಮಾಳಗಿ
ಸಲುವಾಗಿ ಬಾಳು ಕಲ್ಲಪ್ಪ ಎ ಬಾಳಗೆ.
ಮತ್ತು ಕಲ್ಲಪ್ಪ ಸಾಬು ಪೈಲು ಮಾಡಿ
ಅಪೀಲಿಗರಿಗೆ ಅಪೀಲಿಗರು ಮಾಳಗಿ ರಿಸ್ಪಾಂಡೆಂಟ
ಸಲುವಾಗಿ ಬಾಳು ಕಲ್ಲಪ್ಪ ಸಾಬು, ತಲೆ, ಕಲ್ಲಪ್ಪ ಸಾಬು ನಾಡ (ಮೊದಲನೇ
ತಾವಿನವರು ನಾಲ್ಕು:) ನಮೂದು.).

ಎಲಾಹಿನ ಇಲ್ಲಿಯ ೧ ನೇ ವರ್ಗ ಸಬ್-ಜಜ್ಜ ಕೋರ್ಟಿನ ಸನ್ ೧೯೩೦ನೇ

ಇಸವಿಯ ೬೦ ನೆಂಬರು ಅಮಲಿನೇದರಲ್ಲಿ ತಾರೀಖು ೧೩ ನೇ ಡಿಸೆಂಬರ್ ತಿಂಗಳ ಸನ್ ೧೯೩೦ನೇ

ಇಸವಿಯ ಹುಕುಮು ನಾಕೆಯಲ್ಲಿ ಮೇಲೆ ಸದರೀ ಅಪೀಲು ದಾಖಲ ಮಾಡೋಣದರಲ್ಲಿ ಬಂದಿರುತ್ತದೆ.

ಮೇಲೆ ಹೇಳಿದ ೧೯೩೦ ಇನ ಅಮಲಿನ ಇವನು.

ಸದ್ದ ತಾರೀಖಿನ ಹುಕುಮು ನಾಕೆಯ ಮೇಲೆ ಎಲಾಹಿನ ಇಲ್ಲಿಯ

ಡಿಸ್ಟ್ರಿಕ್ಟ — ಕೋರ್ಟಿಗೆ ಅಪೀಲು ಮಾಡಿರುತ್ತಾನೆ.

ಈ ಅಪೀಲು ಸನ್ ೧೯೩೧ ತಿಂಗಳನ್ನ ೨೭ ತಾರೀಖಿನ ದಿವಸ ಎಲ್. M.S.ಕೀಲು

....ಂದೆ, ಅಪೀಲಿಂಟನ ತರ್ಫನಿಂದ ಎಲ್. ಬಿ.ಎ. ಕೂಡ್ಲ. ಇವರ ಸಮಕ್ಷದಲ್ಲಿಯೂ

ರಿಸ್ಪಾಂಡೆಂಟನ ತರ್ಫನಿಂದ ಎಲ್. ನಾರಾಯಣ ಎಡೆಲ — ಇವರ ಸಮಕ್ಷದಲ್ಲಿಯೂ

ಸುನಾವಣೆಯ ಬಗ್ಗೆ ಬಂದದ್ದರ ಮೇಲಿಂದ ಹೀಗೆ ಹುಕುಮು ಮಾಡುವದರಲ್ಲಿ ಬರುತ್ತದಲ್ಲ—

ನಾವು ಅಪೀಲವನ್ನು ಖರ್ಚು ನಾಕಲ್ಲ.

ಎನಿದೆ. ಹಾಳಪ್ಪ ಪೈಲ.

— ೧೧ —

(ಎಫ್) ಶ್ರೀಮತಿ ಚಾಲಕಿಗೆ ಕೆಲಸ ನೀಡಿದ್ದಾರೆ.
ಇದಕ್ಕೆ ಕಾರಣ, ಅವಳು ಒಳ್ಳೆಯ ಚಾಲಕಿ.

(ಜಿ) ಶ್ರೀಮತಿ ಚಾಲಕಿಗೆ ಕೆಲಸ ನೀಡಿದ್ದಾರೆ.
ಇದು ಕಾರಣವಲ್ಲ, ಅವಳು ಸೀರೆ ಧರಿಸಿದ್ದಾಳೆ.

(ಎಚ್) ಚಾಲಕಿಗೆ ಕೆಲಸ ನೀಡಿದ್ದಾರೆ.
ಇದಕ್ಕೆ ಕಾರಣ, ಅವಳು, ಒಳ್ಳೆಯ
ಚಾಲಕಿ ಮತ್ತು ಸೀರೆ ಧರಿಸಿದ್ದಾಳೆ.

(ಐ) ಚಾಲಕಿಗೆ ಕೆಲಸ ನೀಡಿದ್ದಾರೆ.
ಇದಕ್ಕೆ ಕಾರಣ ಅಂತಹ ಯಾವುದೂ ಇಲ್ಲ.
ಅವಳು ಚೆನ್ನಾಗಿ ಗಾಡಿ ಓಡಿಸುವುದಿಲ್ಲ ಮತ್ತು ಸೀರೆ ಉಡುವುದಿಲ್ಲ.

ಉತ್ತರ

(ಎ) ಶ್ರೀಮತಿ ಚಾಲಕಿಗೆ ಕೆಲಸ ನೀಡಿದ್ದಾರೆ.
ಇದಕ್ಕೆ ಕಾರಣ
(ಎಫ್ ಮತ್ತು ಎಚ್)

ಈ ಕೆಳಗೆ ವಿವರಿಸಿದಂತೆ ಈ ಅಪೀಲಿಗೆ ತಡ ವೆಚ್ಚವನ್ನು ಎಂದಕ್ಕೆ, ಒಟ್ಟಿಗೆ
ರೂಪಾಯಿಗಳನ್ನು
ಕೊಡಬೇಕು; ಮತ್ತು ಮೂಲದಾವೆಯ ವೆಚ್ಚವನ್ನು
ಕೊಡಬೇಕು

ಅಪೀಲಿನ ವೆಚ್ಚವು

ಅಪೀಲೆಂಟ.	ರಕಮು. ರೂ.	ಆ.	ಪೈ	ರಿಸ್ಪಾಂಡೆಂಟ.	ರಕಮು. ರೂ.	ಆ.	ಪೈ.
೧. ಅಪೀಲಿನಯೊದಿಯ ಬಗ್ಗೆ ಸ್ಟ್ಯಾಂಪು....	೬	೮	-	೧. ಅಧಿಕಾರ ಪತ್ರದ ಬಗ್ಗೆ ಸ್ಟಾಂಪು....	-	-	
೨. ಅಧಿಕಾರ ಪತ್ರದ ಬಗ್ಗೆ ಸದರ ...	-	೧೫	-	೨. ಅರ್ಜಿಯ ಬಗ್ಗೆ ಸದರ			
೩. ದಾಖಲಾದ ಕಾಗದಗಳ ಬಗ್ಗೆ ಸದರ....				೩. ದಾಖಲಾದ ಕಾಗದಗಳ ಬಗ್ಗೆ ಸದರ			
೪. ಪ್ರೊಸೆಸ್ಸುಗಳ ಬಜಾವಣಿ	೨	೮	-	೪. ಪ್ರೊಸೆಸ್ಸುಗಳ ಬಜಾವಣಿ			
೫. ರೂಪಾಯಿಗಳ ಮೇಲೆ ವಕೀಲನ ಫೀ	೧೫	-	-	೫. ರೂಪಾಯಿಗಳ ಮೇಲೆ ವಕೀಲನ ಫೀ ...	೧೫	-	-
೬. ನಕಲುಗಳ ಬಗ್ಗೆ ಫೀ	೧೫	೨	-	೬. ನಕಲುಗಳ ಬಗ್ಗೆ ಫೀ			
೭. ಉಲಟ ಹರಕತಿಯ ಮೇಲೆ ವಕೀಲನ ಫೀ				೭. ಹರಕತ ಅರ್ಜಿಗೆ ಸ್ಟಾಂಪು			
				೮. ಉಲಟ ಹರಕತಿಯ ಮೇಲೆ ವಕೀಲನ ಫೀ			
ಒಟ್ಟು...	೪೦	೦	-	ಒಟ್ಟು...	೧೫	-	-

ಈ ಜೊತ್ತು ತಾರೀಖು ೨೬ ತಿಂಗಳು ಸೆಪ್ಟೆಂ ಸನ್ ೧೯೪೫ ನೇ ಇಸವಿಯ ದಿನ
ನಮ್ಮ ಸಹಿ ಮಾಡಿ ಮತ್ತು ಕೋರ್ಟಿನ ಮೊಹರು ಮಾಡಿ ಕೊಡಲ್ಪಟ್ಟಿತು.

ತಪಾಸು ಮಾಡಿ ನೋಡಿತು, ಸರಿಯಾಗಿ ಇದೆ.

Sd/- N.S. Shirolkar
ಜಜ್ಜ.

Sd/- M.R. Patil.
ಕಾರಕೂನ. Dy. Sheristedar.

Sd/- Ag. Clerk.

1874152.
Sd/- A.G. Angadi.
ರಿಸ್ಪಾಂಡೆಂಟ ವಕೀಲ.

ಅಪೀಲೆಂಟ ವಕೀಲ.

[ಈ ಮೊಕದಮೆಯಲ್ಲಿಯ ಪಕ್ಷಕಾರರಿಗೆ ಹೀಗೆ ಸೂಚನೆ ಕೊಡುವದರಲ್ಲಿ: ಬರುತ್ತದಲ್ಲ, ಅವರು ತಾವು ಹಾಜರು ಮಾಡಿದ ಯಾವದಾದರೂ ದಸ್ತೈವಜುಗಳನ್ನು ಅವರು (ತಿರುಗಿ) ತೆಗೆದುಕೊಂಡು ಹೋಗದಿದ್ದರೆ ಆ ದಸ್ತೈವಜುಗಳು ಅಪೀಲು ಮಾಡಿದ್ದರೆ, ಆ ಅಪೀಲು ನಿಕಾಲೆಯಾದ ಮೇಲೆ, ನಾಶ ಮಾಡುವದಕ್ಕೆ ಪಾತ್ರವಾಗುವವು ಅಂದರೆ ಅವು ನಾಶ ಮಾಡುವದರಲ್ಲಿ ಬರುವವು.]

Sd/- Illegible.
Asstt.
Sd/- Illegible

Suits. Bijapur.

the plff.

For a declaration that ~~he~~ is liable to pay only Rs. 220-3-6 on account of Judi and Local Fund Cess due in respect of his share in the Inam lands of the village and that the order of Government directing the recovery of local fund cess from individual sub-shares in proportion to their assessment as communicated to him in Government letter, Revenue Department No. 6031/45/28812-M, dated the 11th June 1948 is illegal and ultra vires and for a permanent injunction restraining Government from enforcing the said order.

GOVERNMENT OF BOMBAY.

Legal Department,

Resolution No. 4085

Bombay Castle, 30th May 1952.

Read Government Resolution, Legal Department No.7210 dated 7th May 1951.

Endorsement from the District Government Pleader,

In the Court of the Civil Judge, (Senior Division), Bijapur. Civil Suit No. 608 of 1949. Shrinivasacharya Annacharya Jahagirdar. Plaintiff. Versus. The State of Bombay. Defendant.	Bijapur No.232, dated the 28th March 1952, stating that Civil Appeal No. 90 of 1951 the suit noted in the margin was decided by the District Judge Bijapur, on 28th March 1952, when the following order was passed:-

"The appeal fails and is dismissed with costs."

Letter from the District Government Pleader, Bijapur, No. 412, dated the 17th May 1952, forwarding uncertified copies of the judgment and decree.

RESOLUTION:- The result of the appeal is recorded.

By order of the Governor of Bombay,

original Dhurandhar

S.W. DHURANDHAR,
Assistant Secretary to Government.

To

The Revenue Department,
The Collector of Bijapur,
The District Government Pleader, Bijapur.

Judges. 30/5 Subtd for sign 24/5 A.S.

Subito agli inoue.
file in L Bifafour 9/50
31/5.